



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2304814
Applicant Name: George Johnston
Address of Proposal: 430 E Howell Street

SUMMARY OF PROPOSED ACTION

Master Use Permit to establish use for and construction of a minor communication utility (AT&T Wireless) consisting of four panel antennas mounted to the penthouse wall of an existing apartment/administrative office building. Project includes equipment cabinet to be located in a storage room in the basement.

The following approvals are required:

Administrative Conditional Use – To allow a minor communication utility in a Midrise (MR) zone. (Seattle Municipal Code Chapter 23.44.122)

SEPA - Environmental Determination pursuant to SMC 25.05.

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☐ DNS with condition

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity Description

The project site is located at 430 E Howell Street at the intersection of Summit Avenue and E Howell Street in the Capitol Hill neighborhood of Seattle. The site is split zoned containing both Multifamily Midrise (MR) and Neighborhood Commercial Three with a maximum height limit of 65' (NC3-65). The property contains one building which houses residential apartments and administrative offices along with a small surface parking lot.

Proposal Description

The applicants propose to install four sector antennas to the exterior walls of an existing rooftop penthouse. Two antennas will be placed on the east façade of the penthouse and two on the south façade. All four antennas will be veiled by an RF transparent box painted the same color as the penthouse. The accessory radio equipment will be located in the basement of the building.

Public Comment

Two comment letters were received during the official comment period which ended on September 24th 2003.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE (SMC 23.45.116)

The Land Use Code allows the installation of minor communication utilities in MR zones through the administrative conditional use process. This proposal is subject to the development standards outlined in section 23.57.011.B of the Seattle Municipal Code (SMC). The director's decision has the authority to approve, condition or deny an administrative conditional use application. This decision shall be based on whether the proposed minor communication utility will be materially detrimental to the public welfare or injurious to property. The applicable criteria used for evaluating and or conditioning the applicant's proposal are discussed below.

1. *The project shall not be substantially detrimental to the residential character of the nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impact and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic and the displacement of residential dwelling units.*

According to the plans submitted with the application the antennas will conform to the development standards section 23.57.011.C of the SMC. The proposed antennas will be mounted on an existing rooftop penthouse that is not located within a prohibited setback. As the existing structure and its penthouse do not exceed the maximum allowed height for the zone the proposed antennas will not either.

Views from the surrounding area will not be altered as a result of the proposed minor communication utility. All four antennas will be screened by panels which are made from a plastic foam composite that is both durable and RF transparent. These panels will be mounted to a 4x4 beam that rests on the roof's surface just in front of the mounted antenna. In addition to the vertical screen another panel will be attached to that panel via a biscuit joint creating a horizontal screen. These coverings will be placed on both the east and south facades of the penthouse and painted the same color as the existing structure.

Traffic will not be affected by the proposed minor communication utility. The antennas will not create additional noise and the equipment room will be located in the basement of the apartment building shielding any noise it may create.

The proposed minor communication utility is not likely to become substantially detrimental to the residential character of the neighborhood. The proposed location is the least conspicuous area on the property while still providing effective service. The proposed screening will allow the facility to blend into the existing structure's roof top character. As such neighboring residential may not even know the minor communication utility is located on the roof top. No residential units were eliminated to accommodate the proposed facility.

2. *The visual impacts that are addressed in Section 23.57.016 shall be mitigated to the greatest extent practicable.*

Section 23.57.016 of the SMC requires telecommunication facilities to be integrated into the design of the building. In this instance the proposed facility will be screened horizontally and vertically with RF transparent material painted to match the existing penthouse. Therefore the proposal complies with this criterion.

3. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*
 - a. *The antenna is at least one hundred (100) feet from the MIO boundary, and*
 - b. *The antenna is substantially screened from the surrounding neighborhood's view.*

The proposed minor communication utility is not located within a Major Institution Overlay District. As a result this criterion does not apply.

4. *If the minor communication utility is proposed to exceed the zone height limit, the application shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The proposed facility will not exceed the maximum allowed height limit of 65'.

5. *If the proposed minor communication utility is proposed to be a new free standing transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

The proposed minor communication utility will be located on an existing rooftop penthouse and not on a free standing transmission tower, thus this criterion does not apply.

Summary

The proposed application is consistent with the Administrative Conditional Use criteria of section 23.57.011.B of the Seattle Municipal Code (SMC). The proposed installation of four panel antennas on two facades of an existing rooftop penthouse, is small in size and will not be detrimental to the surrounding neighborhood.

The proposed project will not require the expansion of public facilities and services for its construction or operation. In addition the site will not require additional water, trash or recycling or the management of hazardous materials. Upon its completion this minor communication facility will only require monthly maintenance visits as a result no negative traffic impacts are anticipated as a result of approving this proposal.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The conditional use application is **APPROVED WITH CONDITIONS** as indicated at the end of this document.

SEPA ANALYSIS

Environmental review resulting in a threshold determination is required pursuant to the state environmental policy act (SEPA), WAC 197-11 and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05)

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview policy states, in part: “Where city regulations have been adopted to address an environmental impact, it shall be presumed that such regulation are adequate to achieve sufficient mitigation, “subject to some limitations. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated July 23, 2003. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects for the basis for this analysis and decision.

Short term Impacts

Environmental Health

The application has submitted a “Statement of Federal communication Commission Compliance for Personal Wireless Services Facility” and an accompanying “Affidavit of Qualification and Certification” for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualification for the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The Department’s experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore pose no threat to public health.

The Federal Communication Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

Construction Noise

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas will require a crane for approximately three days. The associated radio equipment will require a smaller crew that will not need the crane. The initial construction activity may have an adverse impact on nearby residences for a short time. The Department finds that the Noise Ordinance is adequate to appropriately mitigate the adverse noise impacts associated with the proposal.

DECISION

This decision was made after review by the responsible official on behalf of the lead agency of the completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirements to inform the public of agency decision pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

[] Determination of Significance. This proposal has or may have significant adverse impact upon the environment. An EIS is required under RCW 43.21C030(2) (c).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

1. Prior to issuance of the MUP permit allowing the installation of the proposed minor communication utility the application shall add new pages to both sets of plans detailed the approved screening method.

SEPA CONDITIONS

NONE.

Signature: (signature on file) Date: December 18, 2003
Glenda Warmoth, Land Use Planner
Department of Planning and Development
Land Use Services